

FILED**NOT FOR PUBLICATION****JUN 14 2007**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUITCATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS
FILED
Clerk
District Court**JUL 11 2007**

UNITED STATES OF AMERICA,

No. 06-10138

Plaintiff - Appellee,

D.C. No. CR-04-00038-1-ARM

v.

ERIC JOHN TUDELA MAFNAS,

MEMORANDUM*

Defendant - Appellant.

Appeal from the United States District Court
for the Northern Mariana Islands
Alex R. Munson, Chief District Judge, PresidingSubmitted June 4, 2007**
Honolulu, Hawaii

Before: THOMPSON, BERZON, and TALLMAN, Circuit Judges.

There was no double jeopardy. Mafnas received credit for the time he served in prison during the post-verdict, pre-sentencing period. *See* 18 U.S.C. § 3585(b)(1). So, the disturbing allegations concerning the conditions at the

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Guam prison notwithstanding, the post-verdict, pre-sentence detention was *part of* rather than *in addition to* the 235-month sentence he received as a result of his conviction. There was therefore no double punishment for a single crime to justify dismissal of the indictment, *see North Carolina v. Pearce*, 395 U.S. 711, 717 (1969), *overruled on other grounds by Alabama v. Smith*, 490 U.S. 794, 795 (1989), and the conviction is

AFFIRMED.

A TRUE COPY
CATHY A. CATTERSON
CLERK OF COURT
ATTEST

JUL - 6 2007

by:

Deputy Clerk